

REMARKS

STATUS OF CLAIMS

Claims 1-5, 7, 11-18, 21, 23-27, 29, 33-40, 43, 45, and 46 have been amended.

Claims 49-50 have been added.

No claims have been cancelled or withdrawn.

Note that Claims 22 and 44 were cancelled in a previous amendment.

Claims 1-21, 23-43, and 45-50 are currently pending in the application.

REQUEST FOR EXAMINER INTERVIEW

Pursuant to MPEP §713.01(III), the Applicant respectfully requests an Interview with the Examiner to discuss the amendments to the claims and how those amendments clarify the fundamental difference between the approach of the claims and the cited prior art, namely that the claims feature configuring the application being installed to include a “configuration parameter” that is “used by the database application, when the database application is executed on the device, to determine how resources are allocated on the device, which is in contrast to using parameters to configure an installation procedure itself, as in the approach of *Aronberg*.”

The Applicant believes that such an Interview would provide valuable assistance to the Examiner when the Examiner is considering this Reply to the Office Action as well as advancing the mutual understanding of the Application and the prior art by the Applicant and the Examiner. The Applicant respectfully requests that the Examiner contact the Applicant’s representative, Craig Holmes, at (408) 414-1207, to schedule the Interview on a date and at time convenient for the Examiner.

NEWLY FILED POWER OF ATTORNEY (POA) AND PREVIOUS POA OF 10/12/04

The Applicant’s file for this Application includes a “Notice Regarding Change of Power of Attorney” that was mailed by the Office on December 3, 2004, and which referred to a Power of Attorney (POA) filed on October 12, 2004. However, the Applicant has no record of ever filing a POA on or about October 12, 2004, and the only POA that the Applicant has a record of filing in previous years was the original POA filed with the Application on May 31, 2001. As a result, the Applicant believes that the POA filed on October 12, 2004

was perhaps meant to have been filed in another Application, and that a typographical error in the Application Number on that October 12, 2004 POA resulted in that POA being filed in the present Application, when in fact that POA was intended to have been filed in another Application.

Therefore, the Applicant electronically filed a new POA on September 25, 2007, to associate this Application with Customer Number 42425, which includes the Applicant's representative, Craig G. Holmes.

PREVIOUSLY FILED INFORMATION DISCLOSURE STATEMENTS

The Applicant greatly appreciates the Examiner's patience and efforts in the handling and considering the many Information Disclosure Statements (IDS's) that have been filed in the present Application. The Examiner's continued patience and understanding is respectfully requested when considering what the Applicant sincerely hopes are the last few final issues with the previously filed IDS's.

The Applicant has performed a thorough review of the previously filed IDS's and the Form 1449's returned by the Examiner from those IDS's, and as a result, the Applicant has identified a number of remaining discrepancies that the Applicant has addressed below. For the first of the discrepancies discussed herein, additional clarification is respectfully requested from the Examiner. For the remaining discrepancies, the Applicant is providing a discussion of those items for the Examiner's assistance in considering additional filings that the Applicant will be making with the Office in the hopes that those additional filings will finally resolve those last few remaining discrepancies.

The Applicant respectfully requests any additional clarification from the Examiner that may be pertinent regarding these discrepancies in the previously filed IDS's as well as any input the Examiner can provide regarding the Applicant's stated efforts to resolve those discrepancies, as explained below.

A. IDS FILED ON MARCH 5, 2004

The IDS filed on March 5, 2004 (which is referred to by the Examiner with the date of 3/8/04, which is the stamped date of receipt by the Office of the 3/5/04 IDS) included a three-page Form 1449 that was returned by the Examiner with the first Office Action that was

mailed on 9/23/04. All of the references on the three-page Form 1449 that was signed by the Examiner and dated 9/17/04 were initialed by the Examiner, thereby indicating that those references were considered, with the exception of U.S. Patent Application Publication No. 2002/0035584 A1 of *Scheier* et al. dated 3/21/02 that was both not initialed and lined out, indicating that *Scheier* was not considered by the Examiner. However, there is no explanation in the Office Action of 9/23/04 or any other reason that is apparent to the Applicant as to why this reference was not considered by the Examiner.

The Applicant respectfully requests that the Examiner either (1) consider *Scheier* and return with the next communication from the Office an updated copy of page 2 of the three-page Form 1449 from the 3/5/04 (or 3/8/04) IDS showing that *Scheier* has been considered or (2) provide an explanation in the next communication from the Office as to why *Scheier* was not considered.

B. IDS's FILED ON SEPTEMBER 17, 2003 AND JUNE 4, 2004

On September 17, 2003, the Applicant filed an IDS with a three-page Form 1449 listing 25 references, and the Applicant received back from the Office a postcard stamped by the OIPE with a date of September 22, 2003, indicating that this 9/17/03 IDS was received by the Office. However, the Applicant has not received back from the Office an initialed, signed, and dated Form 1449 to indicate that the listed references have been considered.

On June 4, 2004, the Applicant filed an IDS with a one-page Form 1449 listing 3 references, and the Applicant received back from the Office a postcard stamped by the OIPE with a date of June 8, 2004, indicating that this 6/4/04 IDS was received by the Office. However, the Applicant has not received back from the Office an initialed, signed, and dated Form 1449 to indicate that the listed references have been considered.

On December 20, 2006, the Applicant filed a Petition for Revival of an Application for Patent Abandoned Unintentionally that included a Request for Continued Examination (RCE) and copies of all the Form 1449's from the fifteen IDS's filed prior to that date, including copies of the 9/17/03 and 6/4/04 IDS's along with copies of the stamped postcards received from the Office that confirm that these two IDS's were in fact received by the Office on September 22, 2003 and June 8, 2004, respectively.

The Advisory Action mailed on November 1, 2006 was accompanied by copies of 13 of the 15 Form 1449's sent by the Applicant, omitting the Form 1449's for the 9/17/03 and 6/4/04 IDS's. The Advisory Action stated on the continuation sheet that "IDS (9/17/03; 6/4/04) do not exist in the application," despite the Applicant having provided copies of the postcards for both of these two IDS's that indicate that those two IDS's were indeed filed by the Applicant. Unfortunately, due to the POA issue noted above and because the new POA filed on September 25, 2007 has not yet been acted upon by the Office, the Applicant is currently unable to access PAIR to determine what, if anything, from these two IDS's are reflected in the Transaction History and/or the Image File Wrapper for the present application.

Based on this sequence of events, the Applicant has concluded that (1) the 9/17/03 and 6/4/04 IDS's, although received by the Office as indicated by the stamps on the returned postcards, have failed to make it into the file for the present Application and (2) that the Applicant's providing of additional copies of those the 9/17/03 and 6/4/04 IDS's, including the postcards showing that there were both received by the Office, as attachments to an Office Action response is not sufficient for the Examiner to have these two IDS's entered into the file and have the references identified on the 9/17/03 and 6/4/04 IDS's considered by the Examiner.

To address the missing 9/17/03 and 6/4/04 IDS's, the Applicant will separately re-send copies of each of the 9/17/03 and 6/4/04 IDS's (including copies of the non-U.S. patent references, if included), apart from this response. These two separate filings will include copies of each of the as-filed 9/17/03 and 6/4/04 IDS's as an attachment to two separate cover letters entitled "Request to Consider Previously Submitted Information Disclosure Statement" that will explain that based on the postcards returned from the Office that indicate that these two IDS's were received, although both failed to be entered into the Office's file for the present Application, and respectfully request that each of the 9/17/03 and 6/4/04 IDS's be considered and treated based on their original filing dates as indicated in the Certificate of Mailings for each of the 9/17/03 and 6/4/04 IDS's.

The Applicant notes that MPEP §503 ("RETURN POSTCARD") states: "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evident of receipt in the USPTO of all the items listed thereon on the date stamped

thereon by the USPTO.” Therefore, the Applicant respectfully requests that when the two separate “Request to Consider Previously Submitted IDS” are received by the Office for the 9/17/03 and 6/4/04 IDS’s, that each be entered into the file for the present Application and treated as if filed on the original filing date of the 9/17/03 and 6/4/04 IDS’s. The Applicant also respectfully requests that the references identified therein be considered by the Examiner, followed by the return to the Applicant of copies of the accompanying Form 1449 with the next communication from the Office and that the returned Form 1449’s include the Examiner’s initials, signature, and date to indicate that all references thereon have been considered.

C. IDS’s FILED ON JUNE 22, 2005 AND MAY 31, 2006

On June 22, 2005, the Applicant filed an IDS with a one-page Form 1449 listing 3 references, and the Applicant received back from the Office a signed and dated copy of the Form 1449 with all 3 references initialed. While the reference on the Form 1449 identified by the citation to U.S. Patent Application No. “6,826,593 B1” of “Ritter et al.” with an issue date of “12-07-2004” was initialed, apparently indicating that this reference was considered, the “Ritter et al.” and “12-07-2004” portions of the citation were lined out, thereby creating potential confusion as to whether this reference was considered or not considered.

On May 31, 2006, the Applicant filed an IDS with a one-page Form 1449 listing 4 references, and the Applicant received back from the Office a signed and dated copy of the Form 1449 with all 4 references initialed. While the reference on the Form 1449 identified by the citation to U.S. Patent No. “6,697,210 B1” of “Silva et al.” with an issue date of “12-13-2005” was initialed, apparently indicating that this reference was considered, the “Silva et al.” and “12-13-2005” portions of the citation were lined out, thereby creating potential confusion as to whether this reference was considered or not considered.

Further investigation by the Applicant revealed that the patent numbers for the two citations on the 6/22/05 and 5/31/06 IDS’s were misidentified due to either a typographical error or the transposition of digits. Specifically, the correct patent number for Ritter in the 6/22/05 IDS is 6,829,593, and the correct Patent No. for Silva in the 5/31/06 IDS is 6,976,210. The incorrect Patent No. 6,826,593 is for Acharya, et al., issued on 11/30/04, and the incorrect Patent No. 6,697, 210 is for Hirano, issued on 2/24/04, neither of which were intended by the

Applicant to be part of these two IDS's. The Applicant sincerely regrets these inadvertent numbering errors in the citations of Ritter and Silva.

Thus, it appears to the Applicant that the Form 1449's, by lining out the names and issue dates, were meant to convey that the patents corresponding to the as-provided but unfortunately incorrect patent numbers of Acharya and Hirano were considered, and that the names and dates listed by the Applicant on the Form 1449's, by being lined out, did not correspond to the patent numbers listed by the Applicant.

To address these issues with the 6/22/05 and 5/31/06, the Applicant will file a new IDS and list on the accompanying Form 1449 both Ritter and Silva, including the correct patent numbers for each. The Applicant respectfully requests that the next communication from the Office return a copy of the signed and dated Form 1449 from that IDS with each of the two references initialed to indicate that both have been considered by the Examiner.

SUMMARY OF THE REJECTIONS/OBJECTIONS

Claims 45 and 46 have been rejected under 35 U.S.C. § 102(a) as allegedly anticipated by U.S. Patent Number 5,933,647 issued to Aronberg et al. ("*Aronberg*"). Claims 1-21 and 23-43 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Aronberg* in view of U.S. Patent Number 6,718,358 issued to Bigus et al. ("*Bigus*") and in further view of U.S. Patent Number 6,446,071 issued to Callaway et al. ("*Callaway*"). The rejections are respectfully traversed.

RESPONSE TO REJECTIONS BASED ON THE PRIOR ART

A. CLAIM 1

(1) INTRODUCTION TO CLAIM 1

As amended above, Claim 1 features:

“A method for installing and configuring an application on a device on a network, the method comprising the steps of:

sending, from the device to a server on the network, a request that (a) requests a database application from the server, and (b) includes resource information that indicates resources that are available on the device;

downloading, from the server, a customized value for a **configuration parameter to be used by the database application, when the database application is executed on the device, to determine how the database application allocates resources on the device**, wherein the customized value was determined by the server based on the resource information;
downloading the database application to the device;
installing the database application on the device; and
configuring the database application to include the customized value for the configuration parameter.” (Emphasis added.)

Thus, Claim 1 has been amended to, *inter alia*, clarify that the “**configuration parameter,**” which is both “determined by the server based on the resource information” that is sent from the device to the server and “includes resource information that indicates resources that are available on the device,” is “**to be used by the database application, when the database application is executed on the device, to determine how the database application allocates resources on the device.**” (Emphasis added.)

This amendment to Claim 1 is intended to clarify the use of the configuration parameter by the application during application execution for the purpose of allocating resources on the device, as opposed to another type of parameter that might be used to configure the installation process itself. While the “customized value for the configuration parameter” is downloaded by the device in response to the request for the database application, and while the database application is also downloaded, installed, and configured to include the customized value for the configuration parameter, the customized value for the configuration parameter is “**used by the database application, when the database application is executed on the device, to determine how the database application allocates resources on the device.**”

Claim 1 is also amended to more explicitly recited “configuring the database application to include the customized value for the configuration parameter” to help avoid confusion that might arise from interpreting that the configuration parameter is being used to configure how the installation of the database application is performed, as opposed to using

the configuration parameter to allocate resources on the device when the database application is executed.

(2) SUPPORT FOR AMENDMENTS TO CLAIM 1

The amendments to Claim 1 are fully supported by the Application as filed, and no new matter is included. Note that Claim 1 and the other claims of the Application are not limited to the particular embodiments and examples described herein and within the Application.

For example, the title of the Application is “Techniques for Automatically Installing and Configuring Database Applications,” which supports the clarifications of Claim 1 with respect to both installing and configuring the database application.

As another example, the amendments to Claim 1 are supported by at least the embodiments illustrated in FIG. 7 and described in Section 7.0 “Automatic Configuration of a Database Application” of the Application. Specifically, in box 735, the database appliance sends the detected resources in the request to the server to obtain both the application and the values for the configuration parameters. In the embodiments of the Application, “the resources available on the appliance for supporting the application...include consumable resources such as storage space, number of users licensed, CPU capacity and maximum transaction rate” and “the type [of] appliance...and the applications already installed on the appliance.” (Page 93, lines 4-10.) Thus, these examples for the resource information illustrated that the resource information describes resources on the appliance.

Based on the resource information, the community server determines “a set of custom values...for one or more configuration parameters of the database application” such as “a shared global area (SGA) for the application, a size for a private cache memory, a size for a tablespace, and a size of a data block.” (Page 93, lines 10-14.) Thus, these examples for the configuration parameter illustrate that the configuration parameter is used to determine how the database application allocates resources on the database appliance.

Then when “the database appliance downloads the application from the community server and installs the application,” the “initial custom values received from the community server” for the configuration parameters are used. For example, “based on the available memory of the appliance and the size of the database being operated by the application, the

community server will set a value for the configuration parameter specifying the SGA for the application, and the appliance initially uses this value.” (Page 94, lines 1-10.) The values are “initial” because as illustrated by step 750, logs of actual use of the appliance’s resources are monitored and the configuration parameters are then periodically tuned and adjusted based on the logs of actual use. (Page 94, lines 20-22.) Since this tuning is an optional feature, the Applicant has amended Claim 1 to remove “initial” from in front of “configuration parameter” to avoid implying in Claim 1 that the configuration parameter is necessarily changed later on.

Note that in these embodiments of the Application that typify the approach of Claim 1, the “resource information” *describes the database appliance* (e.g., “storage space, number of users licensed, CPU capacity and maximum transaction rate,” “type [of] appliance,” and “applications already installed on the appliance”), whereas the “custom values” for the configuration parameters that are determined by the community server based on the resource information dictate *how resources on the database appliance are allocated* (e.g., “a shared global area (SGA) for the application, a size for a private cache memory, a size for a tablespace, and a size of a data block” when the application is executed on the database appliance.

Therefore, the Applicant respectfully submits that all of the amendments to Claim 1 are fully supported by the Application as filed, and no new matter is included.

(3) INTRODUCTORY DISCUSSION OF *ARONBERG* WITH RESPECT TO CLAIM 1

In contrast to the approach of Claim 1, *Aronberg* discloses a “system for distributing software in a customized configuration” in which an agent running on a workstation downloads software based on which conditions of the workstation meet the particular configuration of the software, as determined by the agent. (Abstract.) In particular, *Aronberg* explains that “any combination of several criteria, including user name, group membership, hard disk size, free disk space, and environment variables” are used and that in contrast to the approaches of WinInstall and Symantec, *Aronberg*’s techniques provide “the ability to vary an installation at distribution time based on any of the above criteria.” (Col. 2, lines 1-8.) Specifically, “Each agent 103, 104 detects a newly scheduled application, and evaluates the condition for distribution to see if the distribution to it is appropriate. If the distribution is appropriate for a particular agent, that agent pulls down the distribution, i.e., the agent

performs the actual distribution. If the distribution is not appropriate for a particular agent, then that agent goes back to sleep, i.e., does not perform a distribution.” (Col. 4, lines 54-61.)

Note that in this approach, *Aronberg* is not sending any resource information from the workstation to the file server, nor is *Aronberg* even sending a request to the file server for the application. Rather, *Aronberg*’s approach is focused on the agent that is on the workstation performing the tasks of determining which distribution is appropriate for that workstation by having the agent both evaluate the conditions for the distributions, and then upon finding an appropriate match, the agent itself pulls down the distribution. The particular information that describes the particular workstation and that is used by the agent to check the conditions by is unknown to the server. Although the conditions for a particular application is specified on the server from which the application is obtained and although those conditions may or may not apply to a specific workstation, those conditions are not determined by the server based on any information received from a specific workstation. Thus, there is nothing in *Aronberg* about sending that information describing the workstation to the server, little less that the workstation downloads a custom value for a configuration parameter that is determined by the server based on the information that describes the workstation.

To the extent that *Aronberg* describes “a system for distribution of a software in a customized configuration,” (Col. 2, lines 52-53), *Aronberg*’s system would be most reasonably understood to be a system that allows agents on workstations to download customized versions of an application based on the agent comparing information about the workstation to conditions associated with the different customized versions of the application. Thus, *Aronberg*’s approach does not use information from the workstations to determine the conditions, little less the setting of values for configuration parameters based on information from a workstation so that the values for the configuration parameters can be used to determine how the applications allocate resources on the workstations when the applications are executed on the workstations.

(4) THE OFFICE ACTION’S CITATIONS FROM *ARONBERG*

The Office Action states, *inter alia*, that *Aronberg* discloses “sending, from the device to a server, a request that (a) requests a [database] application from the server (column 4, lines 54-58) [and note that the feature of the application being a “database” application is later

cited based on *Bigus* instead of *Aronberg*], downloading, from the server, an initial customized value for a configuration parameter, wherein the initial customized value was determined by the server (column 2, lines 1-12, and lines 54-56, column 5, lines 44-48; column 9, lines 28-32; figure 4, variables to set; figure 7, variables set, files per directory)” and “installing the database application on the device with the initial customize value for the configuration parameter (figures 4 and 7; column 9, lines 28-32).” However, the Applicant respectfully submits that these cited portions of *Aronberg* merely describe the selection of a particular version (or a “distribution” to use *Aronberg*’s terminology) of an application by an agent on a workstation and that there is no exchange of information about the workstation between the workstation and the server, little less “downloading, from the server, a customized value for a **configuration parameter to be used by the database application, when the database application is executed on the device, to determine how the database application allocates resources on the device**, wherein the customized value was determined by the server based on the resource information” or “configuring the database application to include the customized value for the configuration parameter,” as featured in Claim 1.

For example, as discussed above, Column 4, lines 54-58 of *Aronberg* describe how the agents on the workstations detect newly scheduled applications, evaluate the conditions for the distribution of the application to determine whether or not the distribution is appropriate for the workstation, and if so, the agent pulls down the distribution. However, this portion of *Aronberg* discloses nothing about “sending, from the device to a server on the network, a request that (a) requests a...application from the server, and (b) includes resource information that indicates resources that are available on the device,” as in Claim 1. Rather, it is the agent on the workstation that responds to the schedule and then evaluates the conditions for the distribution, and only if appropriate, does the agent communicate with the server by the agent pulling down the distribution from the server. And if the distribution is not appropriate, the agent does nothing except to go back to sleep, which means that there is no interaction between the agent and the server in that case. Therefore, the Applicant respectfully submits that *Aronberg* fails to disclose “sending, from the device to a server on the network, a request that (a) requests a database application from the server, and (b) includes resource information that indicates resources that are available on the device,” as featured in Claim 1.

As also discussed above, Column 2, lines 1-12 of *Aronberg* describe the “expression builder” that allows for distributions of applications based on any of a number of criteria, such as “user name, group membership, hard disk size, free disk space, and environment variables,” thereby providing the “ability to vary an installation at distribution time based on any of the above criteria” and “allows a network administrator to customize individual aspects of a particular application with ease.” However, as best understood by the Applicant, these criteria characterize the type of workstation and/or user that the application is intended for, and as such, those criteria would not be determined by the server but rather by the user using the “condition expression builder.” For example, Figure 9 of *Aronberg* “shows a dialog box...from which condition related selections are *made by the user*.” (Col. 3, lines 39-41; emphasis added.) *Aronberg* explains that as “shown in FIG. 9, the condition building feature allows *user* at the console to control what conditions a particular agent must meet to pull down the application from the file server.” (Col. 6, lines 20-23; emphasis added.) Thus, the criteria listed in Column 2, lines 1-12 are determined by a user and are not “determined by the server,” as featured in Claim 1.

Column 2, lines 54-56 state: “The system includes a console means for creating distribution control information which is both associated with said software and related to said customized configuration.” Thus, this description in *Aronberg* is consistent with the discussion of the top portion of Column 2 with the console being used by the user to establish the conditions for each configuration of the software to be distributed. This again indicates that the conditions for the customized software configuration are determined by the user and are not “determined by the server,” as featured in Claim 1.

Column 5, lines 44-48 state: “The install types are related to different installation types available with the particular application, e.g., Microsoft Office has install options depending on user hardware capacity such as hard drive storage or RAM capacity.” This is also consistent with the discussion of the previous citations from *Aronberg* in which different installation configurations can be provided for different attributes of the workstations, but such attributes are not described by *Aronberg* as being “determined by the server,” as in Claim 1, and the Applicant respectfully submits such attributes for the different software

versions would most reasonably be understood as being determined by the user or network administrator, not the server.

Column 9, lines 28-32 state: “For example, a condition might be ‘if free disk space \geq 100 megs, then the ‘typical’ install type.’ This logic is evaluated at each workstation by the agent so each user gets the appropriate install type, depending on how much free space they have.” As with the previous citations, this portion of *Aronberg* discloses nothing about the server determining a customized value for the configuration parameter, and the condition about the available free disk space would be understood to be set by the user via the condition building, not the server.

Figure 4 “shows a dialog box, accessed from the window in FIG. 3, from which actions by the user are selected.” *Aronberg* explains that in Figure 4, “the application Microsoft Office is selected with a typical install option, and various actions which the user may select by clicking the mouse controlled cursor on the particular action desired. As noted before, actions are instructions that will be executed by the agent based workstation...when the agent determines it meets the conditions set by the administrator from the console and pulls down the application from the file server...” (Col. 5, lines 30-36.) Thus, contrary to the assertion of the Office Action, Figure 4 does not show “variables to set” but rather actions to be taken by the agent on the workstation when the agent pulls down the application. Furthermore, Figure 4 is against consistent with the previous discussion in that decisions, such as the actions, to take are determined by the administrator or user, not the server, and thus Figure 4 does not disclose that “the customize value was determined by the server,” as featured in Claim 1.

Figure 7 “shows a dialog box, accessed from the window of FIG. 3, from which administration properties are selected by the user.” (Col. 3, lines 33-35.) *Aronberg* explains that in Figure 7 “the console configuration properties include database location, virgin windows location (described in more detail later herein), status, files per directory, server name, and file type.” (Col. 6, lines 2-5.) While Figure 7 does show the types of configuration properties, these are stated as being set “by the user,” not the server, and therefore, Figure 7 does not disclose that “the customize value was determined by the server,” as featured in Claim 1.

(5) THE AMENDMENTS TO CLAIM 1

Even if one were to assume for the moment and merely for argument's sake that the portions of *Aronberg* cited in the Office Action disclose the features of Claim 1 as alleged in the Office Action, the Applicant respectfully submits that neither these cited portions of *Aronberg* nor any other disclose “a **configuration parameter to be used by the database application, when the database application is executed on the device, to determine how the database application allocates resources on the device,**” as featured in Claim 1.

All of the parameters referred to in *Aronberg* are either about the workstation upon which the application is to be installed, such as hard disk size, free disk space, and files per directory, or about the user of the workstation, such as user name and group membership. None of these examples or any others that the Applicant has been able to find within *Aronberg* are “used by the database application, when the database application is executed on the device, to determine how the database application allocates resources on the device,” as in Claim 1. Rather, the workstation and user characteristics described in *Aronberg* are used for the purpose of selecting whether an application should be downloaded to a particular workstation, or which version of an application should be downloaded. Furthermore, none of these criteria used in *Aronberg*'s approach for selecting applications to download are used for “configuring the...application to include the customize value for the configuration parameter,” as featured in Claim 1.

(6) DISCUSSION OF CLAIM 1 AND *BIGUS*

While the Office Action correctly notes that *Aronberg* does not “explicitly state a database application and sending from the device resource information available on the device for customization of parameters,” the Office Action states that “Bigus demonstrated that it was well known at the time of the invention to install database applications (column 1, lines 14-27 and lines 62-64) and to gather resource information from target devices (column 1, lines 38-41; and column 4, lines 1-5).” However, while Column 1, lines 14-27 describe “the complexity of distributed and networked systems” with the “interest in automated techniques for improving the performance of heterogeneous distributed systems,” and while Column 1, lines 62-64 mentions “database products” such as “IBM's DB/2,” there is nothing in those

portions about “sending...a request that ...includes resource information that indicates resources that are available on the device,” as featured in Claim 1.

Column 4, lines 1-5 state: “In another aspect of the present invention, a methodology is provided for incorporating prior knowledge of the target system, as well as for learning verifiable properties about the target system, that can aid in the construction of a generic system model.” Thus, while this portion of *Bigus* describes learning about a target system, it is for the expressly stated purpose of building a generic system model. However, in Claim 1, the “resource information that indicates resources that are available on the device” is the basis upon which “the customized value was determined by the server based on the resource information,” and the cited portion of *Bigus* discloses only the use of the target information to build the “generic system model.”

The Applicant recognizes that *Bigus* is focused on using “tuning control settings 160” (see also block 750) to improve performance on a “controlled target 110” “in accordance with service objective specified by an administrator 100.” (Col. 6, lines 5-12.) However, the information from the controlled target 110 is performance or operational information, not “resources that are available on the device,” as featured in Claim 1. Specifically, *Bigus* describes three types of metrics – “service level metrics 130,” “configuration metrics 140,” and “workload metrics 150.”

However, Column 1, lines 38-41 that is also cited in the Office Action describes that the “concept of ‘tuning’ seeks to improve service levels by adjusting existing resource allocations. Doing so requires access to metrics and to the controls that determine resource allocations.” However, the sentence following that citation further explains: “In general, there are three classes of metrics: (1) ‘**configuration metrics**’ that describe performance related features that are not changed by adjusting tuning controls, such as line speeds, processor speeds, and memory sizes; (2) ‘workload metrics’ that characterize the load on the target, such as arrival rates and service times; and (3) ‘service level metrics’ that characterize the performance delivered, such as response times, queue lengths, and throughputs.” (Col. 1, lines 41-49; emphasis added.) Therefore, even though information about all three types of metrics are collected and used in *Bigus*’ approach, *Bigus* expressly states that the configuration metrics are not changed by adjusting the tuning controls.

Thus, while *Bigus* describes the tuning of “workload metrics” and “service level metrics,” *Bigus* expressly states that “configuration metrics,” such as “memory sizes,” “are not changed by adjusting tuning controls.” As a result, ***Bigus* expressly teaches away** from the combination of *Bigus*’ approach for “automated tuning for performance management” and anything having to do with “configuration,” such as the “distribution of a software in a customized configuration,” as disclosed in *Aronberg*.

Both the remaining metrics that are tuned in *Bigus* approach, such as “workload metrics” and “service level metrics,” and the “tuning control settings” are not akin to “a **configuration parameter to be used by the database application, when the database application is executed on the device, to determine how the database application allocates resources on the device,**” as featured in Claim 1. At best, the “configuration metrics” of *Bigus* might be considered to be akin to the “configuration parameter” of Claim 1, but *Bigus* expressly states that such “performance related features of the target ...are not changed by adjusting tuning controls,” and thus *Bigus* fails to disclose “the customized value [for the configuration parameter] was determined by the server based on the resource information,” as featured in Claim 1.

In summary, the Applicant respectfully submits that not only does *Bigus* fail to disclose “resource information that indicates resources that are available on the device” in which “a customized value for a configuration parameter...was determined by the server based on the resource information,” as featured in Claim 1, *Bigus* expressly teaches away from changing “configuration metrics” by adjusting tuning controls.

Furthermore, because *Bigus* is concerned with tuning the performance of a system during operation based on performance data from the system’s operation, whereas *Aronberg* is concerned with installing customized configurations of software, it is unclear how *Aronberg* could be modified with the teaching of *Bigus* since *Bigus* relies upon performance data to determine the tuning settings, which means that the software is already installed and operating, while with *Aronberg*, the software is not installed yet, hence there is no performance data for the software to be collected from a target as in *Bigus*. Thus, the Applicant respectfully submits that *Aronberg*’s approach cannot be modified by *Bigus* because there is no performance data as required by *Bigus*’ approach and that the modification of

Bigus by *Aronberg* adds nothing to *Bigus* since the software is already installed with *Bigus*' approach, which means that *Aronberg*'s approach would not alter or add to that of *Bigus*.

(7) DISCUSSION OF CLAIM 1 AND *CALLAWAY*

The Office Action correctly notes that *Aronberg* does not “explicitly state *sending to a server data indicating device resources*,” (emphasis in original), and the Office Action states that “*Callaway* demonstrated that it was known at the time of the invention to seek centralization of data and software (column 3, line 2-4).” However, the cited portion of *Callaway* states: “In today’s server-based environments, it is desirable to manage all users, applications, and data from a centralized location.” Thus, while *Callaway* is promoting centralization in server-based environments, this says nothing about “sending to a sever data indicating device resources,” as alleged in the Office Action.

Furthermore, the feature of Claim 1 that the Office Action is apparently being alleged to be disclosed in *Callaway* is “sending...a request that...includes resource information that indicates resources that are available on the device.” But *Callaway*'s promotion of centralization of data and software is referring to the data stored for use by the software, which says nothing about resources on the distributed devices within the network. In fact, *Callaway* explains that it is directed to “providing administrative management for customizable user environments within a distributed processing system,” (Col. 1, lines 35-37), such as by using a “user-application definition linking the selected user and the selected application” that is stored on a server. (Col. 3, lines 13-17.) Thus, there is nothing within *Callaway* about sending data to a server indicating device resources, as alleged in the Office Action, little less “sending...a request that...includes resource information that indicates resources that are available on the device,” as featured in Claim 1.

(8) CONCLUSION OF DISCUSSION OF CLAIM 1 AND *ARONBERG*, *BIGUS*, AND *CALLAWAY*

Because *Aronberg*, *Bigus*, and *Callaway*, either alone or in combination, fail to disclose, teach, suggest, or in any way render obvious “sending, from the device to a server on the network, a request that ... includes resource information that indicates resources that are available on the device,” “downloading, from the server, a customized value for a **configuration parameter to be used by the database application, when the database application is executed on the device, to determine how the database application**

allocates resources on the device, wherein the customized value was determined by the server based on the resource information,” and “configuring the database application to include the customized value for the configuration parameter,” the Applicant respectfully submits that, for at least the reasons stated above, Claim 1 is allowable over the art of record and is in condition for allowance.

B. CLAIM 23

Claim 23 contains features that are the same as those described above with respect to Claim 1, and in particular both Claims 1 and 23 feature “sending, from the device to a server on the network, a request that ... includes resource information that indicates resources that are available on the device,” “downloading, from the server, a customized value for a **configuration parameter to be used by the database application, when the database application is executed on the device, to determine how the database application allocates resources on the device**, wherein the customized value was determined by the server based on the resource information,” and “configuring the database application to include the customized value for the configuration parameter.” Therefore, based on at least the reasons stated above with respect to Claim 1, the Applicant respectfully submits that Claim 23 is allowable over the art of record and are in condition for allowance.

C. CLAIMS 21 AND 43

Claims 21 and 43 contain features that are either the same as or similar to those described above with respect to Claim 1. In particular both Claims 21 and 43 feature “receiving, at a server on the network from the device, a request that ...includes resource information that indicates resources that are available on the device,” “determining a customized value for a configuration parameter based on the resource information, wherein **the configuration parameter is to be used by the application, when the database application is executed on the device, to determine how the database application allocates resources on the device**,” and “sending to the device data causing the application to be configured to include the customized value for the configuration parameter,” which are either the same as or similar to (e.g., while the two differ between sending vs. receiving, that is just a difference in perspective while what is sent or received is the same). Therefore, based

on at least the reasons stated above with respect to Claim 1, the Applicant respectfully submits that Claims 21 and 43 are allowable over the art of record and are in condition for allowance.

D. CLAIM 45

(1) INTRODUCTION TO CLAIM 45

As amended above, Claim 45 features:

“A machine-implemented method, comprising the steps of:

receiving, at an appliance, a **document** that includes **textual elements *that specify***

(a) **steps for installing and configuring** an application on the appliance, and

(b) a **customized parameter value** to use when installing and configuring the application on the appliance;

after receiving the document, translating the textual elements to commands; and

the appliance **executing the commands** to perform said steps to **install the**

application on the appliance and to **configure the application** to include the **customized parameter value.**” (Emphasis added.)

Thus, Claim 45 has been amended to, *inter alia*, clarify that the “**document...includes textual elements *that specify*...steps for installing and configuring** an application,” that “**translating the textual elements to commands**” is performed “**after receiving the document,**” and that “the appliance **executing the commands** to perform said steps...” These amendments to Claim 45 are intended to clarify that the approach is to both install and configure the application on the appliance, similar to the approach of Claim 1, and that the translating of the textual elements in the document into commands is performed after the document is received.

(2) SUPPORT FOR AMENDMENTS TO CLAIM 45

The amendments to Claim 45 are fully supported by the Application as filed, and no new matter is included. Note that Claim 45 and the other claims of the Application are not limited to the particular embodiments and examples described herein and within the Application.

For example, the title of the Application is “Techniques for Automatically Installing and Configuring Database Applications,” which supports the clarifications of Claim 45 with respect to configuring the database application.

As another example, the amendments to Claim 45 are supported by at least the embodiments illustrated in FIG. 7 and described in Section 7.0 “Automatic Configuration of a Database Application” of the Application. Specifically, in box 735, the database appliance sends the detected resources in the request to the server for the application and the configuration parameters. Then when “the database appliance downloads the application from the community server and installs the application” the “initial custom values received from the community server” for the configuration parameters are used. For example, “based on the available memory of the appliance and the size of the database being operated by the application, the community server will set a value for the configuration parameter specifying the SGA for the application, and the appliance initially uses this value.” (Page 94, lines 1-10.)

As another example, the Application describes embodiments in which the information sent to the appliance “is in the form of an XML document” that both includes configuration parameters and “steps involved in the installation process. [For example,] the XML document includes instructions for setting up a directory to store the application and its associated files and registering the installation with a software update service.” (Page 93, lines 18-25.) “In some embodiments, in response to receiving the data structure, the device automatically performs the step of installing the application on the computer device based on the data in the data structure. For example, in response to receiving the XML document describing the configuration parameters, and the directory to form, and the registration procedure, the XML elements are automatically translated to commands to cause a processor to perform the described steps in the order specification, such as with an XSLT [(extensible stylesheet language translator)] document.” (Page 94, lines 13-19.)

Therefore, the Applicant respectfully submits that all of the amendments to Claim 45 are fully supported by the Application as filed, and no new matter is included.

(3) INTRODUCTORY DISCUSSION OF *ARONBERG* WITH RESPECT TO CLAIM 45

In contrast to the approach of Claim 45, *Aronberg* discloses a “system for distributing software in a customized configuration” in which an agent running on a workstation

downloads software based on which conditions of the workstation meet the particular configuration of the software.” (Abstract.) In particular, *Aronberg* explains that “any combination of several criteria, including user name, group membership, hard disk size, free disk space, and environment variables” can be used and that in contrast to the approaches of WinInstall and Symantec, *Aronberg*’s techniques provide “the ability to vary an installation at distribution time based on any of the above criteria.” (Col. 2, lines 1-8.) Specifically, “Each agent 103, 104 detects a newly scheduled application, and evaluates the condition for distribution to see if the distribution to it is appropriate. If the distribution is appropriate for a particular agent, that agent pulls down the distribution, i.e., the agent performs the actual distribution. If the distribution is not appropriate for a particular agent, then that agent goes back to sleep, i.e., does not perform a distribution.” (Col. 4, lines 54-61.)

Note that in this approach, *Aronberg* is not sending or receiving information, such as a document, that includes textual elements that are translated, little less translated into commands, and little that that such commands are executed by a device to install and configure and application.

(4) THE OFFICE ACTION’S CITATIONS FROM *ARONBERG*

The Office Action states, *inter alia*, that *Aronberg* discloses “receiving, at an appliance, a document that includes elements that specify (a) steps for installing an application on the appliance (column 2, lines 52-54; column 5, lines 30-35), and (b) customized parameter values to sue when installing the application on the [appliance] (column 2, lines 52-54); and automatically translating the elements to commands, which are executed by the appliance to perform said steps to install the application on the [appliance] using the customized parameter values (column 4, lines 35-38; installation commands to be performed translated at least from the network protocol used to get them to the target.” In the Response to Arguments section, the Office Action states: “An installation program does teach textual elements in at least two significant ways: 1) the program itself would be displayed using textual ASCII characters; and 2) programs for use by human beings communicate via user interfaces which rely in part on text. Thus the installation program contains text and is a document according to the claims. Further any document, program, or other data that is received via a protocol is formatted according to that protocol. At some point, the received

information must be striped or converted or translated from transmission protocol to straight information.”

As a preliminary matter, the Applicant notes that Claim 45 was previously amended to feature not just “elements” but “textual elements,” yet this feature of Claim 45 is omitted from the rejection of Claim 45. However, given the discussion in the Response to Arguments section that refers to the displaying “using textual ASCII characters” and that user interfaces “rely in part on text,” the Applicant will treat the rejection of Claim 45 as if the rejection recited the “textual elements” that are featured in Claim 45.

Also, the Applicant notes that Claim 45 does not merely feature “text,” but rather “textual elements” that are used in a particular way, namely that the textual elements are translated into commands that are executed to install and configure the Application. Thus, the Applicant respectfully submits that it is not sufficient to merely find the disclosure of “text” in a prior art reference, but rather that the prior art needs to disclose the type of text as featured in Claim 45. Otherwise, such a piecemeal approach to finding individual words in a claim, if logically extended, would allow for the rejection of any claim based on a dictionary that merely discloses all the words in the claim.

As discussed above, Column 2, lines 52-54 of *Aronberg* state: The present invention is a system for distribution of a software in a customized configuration to a computer in [a] network environment.” Column 5, lines 30-35 state: “actions are instructions that will be executed by the agent based workstation, such as 103 or 104, when the agent determines it meets the conditions set by the administrator from the console and pulls down the application from the file server 102. After the profiler has created the predetermined set of actions, the user can add more actions to **customize the download of the application.**” (Emphasis added.) Based on the Response to Arguments section, the Office Action’s rejection is understood by the Applicant to be that since *Aronberg* distributes software, an installation program is used that the Office Action considers to be “a document,” that such an installation program would be displayed to the user using ASCII characters, and that such an installation program includes “actions” that are “instructions” executed by the agent, which the Office Action is equating to the steps of Claim 45.

However, as is made clear in the highlighted portion above, the actions disclosed in *Aronberg* are to “**customize the download of the application**,” as opposed to customizing the installation or configuration of an application, as in the approach of Claim 45.

As for the last citation to *Aronberg*, Column 4, lines 35-38 state: “The workstation hardware is configured by software including an operating system, e.g., Windows 95 or NT, networking software, and either the console or agent software components.” However, the portion of Claim 45, as amended above, that this portion of *Aronberg* is alleged to disclose is “translating the textual elements to commands” and “the appliance executing the commands to perform said steps to install the application on the appliance and to configure the application to include the customized parameter value.” Based on the parenthetical in the rejection of these features of Claim 45 and the Response to Arguments portion addressing these features of Claim 45, the Applicant understands that the Office Action is based on the “translating” step of Claim 45 reading on the use of a network protocol to transmit information between devices. However, the Applicant respectfully submits that the reliance on the use of a transmission protocol as disclosing “translating textual elements to commands” “to perform said steps to install the application on the appliance and to configure the application to include the customize parameter value” is misplaced, for at least the following reasons.

First, transmission protocols do not “translate” information, but rather transmit information from one device to another by using a packet-based formulation in which each packet includes a header portion and a payload portion. The packet header provides addressing and handing information and instructions, whereas the payload portion of the packet that comprises the bulk of the packet includes the information to be transmitted. Thus, the portion of the Office Action’s Response to Arguments section that refers to the received information being “stripped” is accurate insofar as that upon receipt of the various packets for a block of information or file, the headers of the packets are stripped from the packets, leaving the payload portions that are then recombined into the original block of data or file.

However, such a reconstruction of the original block of data or file by removing packet headers does not involve any sort of conversion or translation of the payload portion of the packets. Thus, the Applicant respectfully submits that a transmission protocol does not

involve translation, little less translation from “textual elements to commands” in which those commands, upon execution, “perform said steps to install the application...” as in Claim 45.

Second, to the extent that transmission of information involves the generation, transmission, and receipt of signals that represent the information to be transmitted, the signals that are sent are not “textual elements” since, as noted in the Office Action’s Response to Arguments, textual means “ASCII” text and such signals are not ASCII text. Rather, the signals are generated based on an agreed upon scheme in which specific signals are understood to correspond or represent specific characters, and thus upon receipt, the reconstruction of the characters based on the received signals produces text, not commands, little less the translation of text into commands. Thus, the Applicant respectfully submits that signal generation, transmission, and receipt does not involve commands, little less “translating “textual elements to commands” in which those commands, upon execution, “perform said steps to install the application...” as in Claim 45.

(5) THE AMENDMENTS TO CLAIM 45

Even if one were to assume for the moment and merely for argument’s sake that the portions of *Aronberg* cited in the Office Action along with the use of a transmission protocol disclose the features of Claim 45 as alleged in the Office Action, the Applicant respectfully submits that neither these cited portions of *Aronberg* nor any other disclose “***after receiving the document, translating the textual elements to commands,***” as featured in Claim 45.

For example, assume for the moment that the use of a transmission protocol does involve some form of “translating” that can somehow be interpreted to mean “translating textual elements to commands.” Even with such an assumption, Claim 45 is different in that “***translating the textual elements to commands***” is performed “***after receiving the document.***” Any “translation” through the use of a transmission protocol is necessarily part of receiving the information being translated, and thus any such “translation” occurs as part of receiving, not after the information is received. Thus, the Applicant respectfully submits that Claim 45, by featuring that the translating is performed “***after receiving the document,***” is still not disclosed by use of the transmission protocol as alleged in the Office Action.

(6) CONCLUSION OF DISCUSSION OF CLAIM 45, *ARONBERG*, AND “TRANSMISSION PROTOCOLS”

Because *Aronberg* and the “transmission protocols” referred to in the Office Action, either alone or in combination, fail to disclose, teach, suggest, or in any way render obvious “**document...includes textual elements that specify...steps for installing and configuring** an application,” “**translating the textual elements to commands**” is performed “**after receiving the document**” and that “the appliance **executing the commands** to perform said steps...,” the Applicant respectfully submits that, for at least the reasons stated above, Claim 45 is allowable over the art of record and is in condition for allowance.

(7) DISCUSSION OF CLAIM 45 WITH RESPECT TO *BIGUS* AND *CALLAWAY*

Although not relied upon in the rejection of Claim 45, the Applicant will briefly address *Bigus* and *Callaway* with respect to Claim 45.

Bigus is directed to automated tuning using tuning control settings to adjust resource allocations for performance management in distributed heterogeneous systems, which means that the systems being tuned already have the software installed. Thus, *Bigus* is unrelated to the approach of Claim 45 for installing and configuring an application that includes the use of a customized parameter value that is included in the document in the form of textual elements that also specify steps for installing and configuring the application, along with translating those textual elements into commands to perform the steps to install and configure the application. Also, as noted above, *Bigus* expressly teaches away from changing “configuration metrics” by adjusting tuning controls. (Col. 1, lines 41-43.)

Callaway is directed to user-specific management of applications through the use of user application definitions to link users and applications that allows for accommodating user preferences while allowing for standard configurations for more efficient administration. Thus, *Callaway* is also unrelated to the approach of Claim 45 for installing and configuring an application that includes the use of a customized parameter value that is included in the document in the form of textual elements that also specify steps for installing and configuring the application, along with translating those textual elements into commands to perform the steps to install and configure the application.

Therefore, the Applicant respectfully submits that *Bigus* and *Callaway*, either alone or in combination with each other or in combination with *Aronberg*, fail to disclose, teach,

suggest, or in any way render obvious “**document...includes textual elements that specify...steps for installing and configuring** an application,” “*translating* the **textual elements to commands**” is performed “*after receiving* the **document**” and that “the appliance **executing the commands** to perform said steps...,” the Applicant respectfully submits that, for at least the reasons stated above, Claim 45 is allowable over the art of record and is in condition for allowance.

E. CLAIM 46

Claim 46 contains features that are the same as those described above with respect to Claim 45, and in particular both Claims 45 and 46 feature the “**document...includes textual elements that specify...steps for installing and configuring** an application,” “*translating* the **textual elements to commands**” is performed “*after receiving* the **document**” and that “the appliance **executing the commands** to perform said steps...” Therefore, based on at least the reasons stated above with respect to Claim 1, the Applicant respectfully submits that Claim 23 is allowable over the art of record and are in condition for allowance.

F. CLAIMS 2-20, 24-42, 47, 48, 49, AND 50

Claims 2-20 are dependent upon Claim 1, Claims 24-42 are dependent upon Claim 23, Claim 47 is dependent upon Claim 21, Claim 48 is dependent upon Claim 43, Claim 49 is dependent upon Claim 45 and Claim 50 is dependent upon Claim 46, and thus include each and every feature of the corresponding independent claims. Each of Claims 2-20, 24-42, 47, 48, 49, and 50 is therefore allowable for the reasons given above for Claims 1, 21, 23, 43, 45 and 46. In addition, each of Claims 2-20, 24-42, 47, 48, 49, and 50 introduces one or more additional limitations that independently render it patentable. However, due to the fundamental differences already identified, to expedite the positive resolution of this case a separate discussion of those limitations is not included at this time. Therefore, it is respectfully submitted that Claims 2-20, 24-42, 47, 48, 49, and 50 are allowable for the reasons given above with respect to Claims 1, 21, 23, 43, 45 and 46.

CONCLUSION

The Applicant believes that all issues raised in the Office Action have been addressed and that allowance of the pending claims is appropriate. After entry of the amendments, further examination on the merits is respectfully requested.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

To the extent necessary to make this reply timely filed, the Applicant petitions for an extension of time under 37 C.F.R. § 1.136.

If any applicable fee is missing or insufficient, throughout the pendency of this application, the Commissioner is hereby authorized to any applicable fees and to credit any overpayments to our Deposit Account No. 50-1302.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP

/CraigGHolmes#44770/

Craig G. Holmes

Reg. No. 44,770

Date: October 1, 2007

2055 Gateway Place, Suite 550
San Jose, CA 95110-1089
Telephone: (408) 414-1207
Facsimile: (408) 414-1076